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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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BETT, JACOB F

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,038	<b>Applicant(s)</b> ZEMPEL, JONATHAN T.	
	<b>Examiner</b> Jacob F. Bétit	<b>Art Unit</b> 2169	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3 March 2009 has been entered.

### ***Remarks***

2. In response to communications filed on 3 March 2009, claims 1, 9, 14, and 18-20 are amended per applicant's request. Claims 1-20 are presently pending in the application.

### ***Claim Objections***

3. Claims 18-20 are objected to because of the following informalities: Claims 18-20 recite "enables" performing actions. The use of the word "enables" draws into question whether the actions are actually performed by the code or if the code simply prevents a prohibition of the actions being taken (doesn't prohibit). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP §2106 II.C. The applicant should amend the claims to include functional language (i.e., "causes a computer system to").

As indicated by the applicant in the interview summary, this was discussed in the interview. The applicant did not disagree with the examiner's interpretation in the interview or

in the interview summary, and therefore, it is not clear why a supplemental amendment was not made to avoid this objection.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond et al. (U.S. patent application publication No. 2002/0095401) in view of Jacobs et al. (U.S. patent No. 6,678,791 B1).

As to claim 1, Redmond et al. teaches a method of tracking data, the method comprising:  
receiving a request from a client on at least one computing device, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item and the request includes a tracking type identifier (see paragraphs 0040-0041, “client systems request data” and see paragraph 0044, “SAO A” and “SAO B”);

determining an identification of the particular tracked data item in the request using the at least one computing device (see paragraph 000039);

selecting a handler based on an identification of the particular tracked data item using the at least one computing device, wherein the selected handler provides the particular tracked data item to a data application (see paragraph 0042);

obtaining response data from the data application based on the tracked data item using the at least one computing device (see paragraph 0050);

generating a response based on the response data using the handler using the at least one computing device, wherein the handler formats the response for a client based on the tracking type identifier (see paragraph 0055-0056);

storing the response in a recordable medium (0056, where it is implicit that if a response is transmitted to a client, the client will store it in some kind of memory when it is received, further it is implicit that the message exists somewhere in memory before it is transmitted).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 2, Redmond et al. as modified, teaches further comprising providing the response to the client (see Redmond et al., paragraph 0056).

As to claim 3, Redmond et al. as modified, teaches further comprising determining an identification of the particular client from which the request was received, wherein the selecting step is further based on the identification of the particular client (see Redmond et al., paragraph 0044).

As to claim 4, Redmond et al. as modified, teaches wherein the obtaining step includes: retrieving a trackable object associated with the tracked data item (see Redmond et al., paragraph 0042); and providing the trackable object to the data application (see Redmond et al., paragraph 0045-0047).

As to claim 5, Redmond et al. as modified, teaches wherein the obtaining step includes: retrieving at least one measurable objective associated with the tracked data item (see Redmond et al., paragraph 0035 and paragraph 0040); and providing the at least one measurable objective to the data application (see paragraph Redmond et al., 0040).

As to claim 6, Redmond et al. as modified, teaches wherein the generating step includes:

obtaining format data based on a response format (see Redmond et al., paragraph 0041);  
and

formatting the response data using the format data (see Redmond et al., paragraph 0043).

As to claim 7, Redmond et al. as modified, teaches wherein the format data defines a predefined tracking standard (see Redmond et al., paragraph 0042).

As to claim 8, Redmond et al. as modified, teaches wherein the generating step includes:  
obtaining client data based on the client (see Redmond et al., paragraph 0050); and  
formatting the response data using the client data (see Redmond et al., paragraphs 0050-0052).

As to claim 9, Redmond et al. teaches a method of tracking data, the method comprising:  
receiving a request from a client on at least one computing device, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item and the request includes a tracking type identifier (see paragraphs 0040-0041 and see paragraph 0044, “SAO A” and “SAO B”);

determining identifications of the particular tracked data item in the request and the particular client from which the request is received using the at least one computing device (see paragraph 0044 and 0045);

selecting the handler based on identifications of the particular tracked data item and the particular client using the at least one computing device, wherein the selected handler provides the particular tracked data item to a data application (see paragraph 0042);

obtaining response data for the tracked data item from the data application using the at least one computing device (see paragraph 0050);

generating a response based on the response data using the handler using the at least one computing device, wherein the handler formats the response for the client based on the tracking type identifier (see paragraph 0055); and

providing the response to the client using the at least one computing device (see paragraph 0056).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would



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allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 10, see the citations directed to claim 4 above.

As to claim 11, see the citations directed to claim 5 above.

As to claim 12, see the citations directed to claim 6 above.

As to claim 13, see the citations directed to claim 8 above.

As to claim 14, Redmond et al. teaches a system for tracking data, the system comprising:  
at least one computer (see figure 1), the at least one computer comprising:  
at least one handler for processing a request that is at least one of: providing update data for a tracked data item or requesting data for the tracked data item and the request includes a tracking type identifier (see paragraphs 0040-0042 and see paragraph 0044, “SAO A” and “SAO B”); and

a management system for receiving the request from a client, determining an identification of the particular tracked data item in the request, and selecting one of the at least one handlers based on the identification of the particular tracked data item, wherein the selected handler provides the particular tracked data item to the data application (see paragraph 0042, 0044, and 0045);

wherein the selected handler obtains response data for the tracked data item, generates a response based on the response data, wherein the handler formats the response for the client

based on the tracking type identifier and stores the response in a recordable medium (see paragraphs 0050 and 0055-0056).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 15, Redmond et al. as modified, teaches the at least one computer further including comprising a data application for providing the response data to the selected handler (see Redmond et al. paragraph 0056).

As to claim 16, Redmond et al. as modified, teaches the at least one computer further including further comprising a client system for providing client data based on the client (see Redmond et al. paragraph 0044).

As to claim 17, Redmond et al. as modified, teaches the at least one computer further including a format system for providing format data based on a predefined tracking standard (see Redmond et al. paragraph 0042).

As to claim 18, Redmond et al. teaches a program product stored on a physical recordable medium for tracking data, the program product including program code, which when executed, enables a computer system to:

receive a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item, and the request includes a tracking type identifier (see paragraphs 0040-0041 and see paragraph 0044, “SAO A” and “SAO B”);

determine identifications of the particular tracked data item in the request and the particular client from which the request was received (see paragraphs 0044 and 0045);

select a handler based on identifications of the particular tracked data item and the particular client, wherein the selected handler provides the particular tracked data item to a data application (see paragraph 0042);

obtain response data for the tracked data item from a data application (see paragraph 0050);

generate a response based on the response data using the handler, wherein the handler formats the response for the client based on the tracking type identifier (see paragraph 0055); and provide the response to the client (see paragraph 0056).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 19, Redmond et al. teaches further comprising program code, which when executed, enables the computer system to: retrieve at least one of:

a trackable object and at least one measurable objective associated with the tracked data item (see as modified, paragraph 0035); and

provide at least one of: a trackable object and at least one measurable objective to the data application (see as modified, paragraphs 0035 and 0040).

As to claim 20, Redmond et al. as modified, teaches further program code, which when executed, enables the computer system to:

obtain format data based on a response format (see as modified, paragraph 0041);  
obtain client data based on the client (see as modified, paragraph 0050); and  
format the response data using the format data and the client data (see paragraphs 0043 and 0050-0052).

### ***Response to Arguments***

6. Applicant's arguments filed 3 March 2009 have been fully considered but they are moot in view of the new grounds of rejection.

In response to the applicant's arguments that "Redmond fails to disclose 'obtaining response data from the data application based on the tracked data item'", the arguments have been considered, but are not deemed persuasive. It is clear that the SAO interface obtains response data from the databases based on the request. See paragraph 0056.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Bétit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 9:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Jacob F Bétit/  
Examiner, Art Unit 2169

jfb  
29 Apr 2009